

**FACSIMILE TRANSMITTAL COVER SHEET**

#13

Date: April 24, 2000  
To: Examiner Bronwen Loeb  
USPTO  
Crystal City, VA  
703-746-5016  
RE: Ser. No. 09/600,602 --

**FAX RECEIVED**  
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GROUP 1600

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From: Mark Nuell  
Address: **BIRCH, STEWART, KOLASCH & BIRCH, LLP**  
**P.O. BOX 747**  
**FALLS CHURCH, VIRGINIA 22040-0747**  
Phone: (703) 205-8000 -- Switchboard  
(703) 205-8050 -- Facsimile No. 1  
(703) 205-8060 -- Facsimile No. 2

3 Pages to Follow.

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Examiner Loeb:

In reply to your telephone message responsive to my call, here are the amendments that I was proposing. I believe that they address the issues you indicated, but I think they provide a little clearer language. On the "second isolated nucleic acid fragment", note that claims 1 and 13 recite alternative descriptions of the fragment ("or"). Please call me at 703-205-8043 to discuss what language I should inform my client about.

-Mark Nuell Reg. No. 36,623

## PROPOSED AMENDMENTS IN 09/600,602

1. (Amended) An isolated nucleic acid fragment no more than 120 nucleotides in length and comprising the nucleotide sequence shown in SEQ ID NO: 1 or an isolated nucleic acid fragment no more than 120 nucleotides in length, excluding the nucleic acid having the nucleotide sequence shown in SEQ ID NO: 3, comprising the [same] nucleotide sequence shown in SEQ ID NO: 1 except that one or a plurality of nucleotides are substituted or deleted, or except that one or a plurality of nucleotides are inserted or added, which has [an] activity to promote expression of a structural gene located downstream of said nucleic acid fragment.

13. (Amended) A method for promoting expression of a structural gene, comprising inserting, at a location upstream of said structural gene, a nucleic acid fragment no more than 120 nucleotides in length comprising the nucleotide sequence shown in SEQ ID NO: 1 or a nucleic acid

fragment no more than 120 nucleotides in length, excluding the nucleic acid having the nucleotide sequence shown in SEQ ID NO: 3, comprising the same nucleotide sequence as shown in SEQ ID NO: 1 except that one or a plurality of nucleotides are substituted or deleted, or except that one or a plurality of nucleotides are inserted or added, which has [an] activity to promote expression of a structural gene located downstream of said nucleic acid fragment.

24. The method according to claim 17, in which a plurality of said nucleic acid fragments is inserted in said intron [upstream of said structural gene].

25. The method according to claim 18, in which a plurality of said nucleic acid fragments is inserted in said intron [upstream of said structural gene].